

Appendix I

Drug Testing Policy and Procedures

BACKGROUND: A drug abuse and alcohol misuse testing program is being implemented for Local Fire and Rescue Department (LFRD) personnel of the Montgomery County Fire and Rescue Service (MCFRS). Each year, approximately 25% of IECS certified LFRD volunteer personnel will participate in a random drug-testing program.

The MCVFRA and MCFRS are committed to addressing the issue and problems associated with drug and alcohol abuse by all members of the MCFRS. Drug and alcohol abuse is a severe detriment to readiness and safety in terms of performance, reliability, and the exercise of sound judgment. It undermines health, safety and discipline; is incompatible with maintaining high standards of performance; and interferes with attaining personal excellence. LFRD personnel who abuse drugs and alcohol can also seriously damage their physical and mental health, and jeopardize their own safety and the safety of others. Because of the critical nature of the MCFRS mission and the importance of its responsibility, the County must assure that LFRD personnel are not impaired by the misuse or unauthorized use of drugs, or the consumption of alcohol.

Sec. 1. Purpose: This policy establishes requirements for testing procedure to detect drug abuse and alcohol misuse that applies to all LFRD volunteer personnel who operate LFRD or MCFRS vehicles of the Montgomery County Fire and Rescue Service. The random testing provisions apply only to LFRD Volunteer IECS certified personnel.

(a) **Functions of the Drug Abuse and Alcohol Misuse Testing Program.**

- (1) protect the health and safety of the public;
- (2) protect and enhance the health, safety, and efficiency of the MCFRS workforce;
- (3) identify those MCFRS individuals who abuse drugs or misuse alcohol;
- (4) discourage drug abuse and alcohol misuse by MCFRS individuals;
- (5) motivate individuals with active drug or alcohol problems to seek treatment;
- (6) prevent collisions;
- (7) reduce liability resulting from accidents and misconduct; and
- (8) protect public and private property.

Sec. 2. Applicability. This policy applies to all LFRD volunteer personnel.

Sec. 3. Definitions.

- (a) **Alcohol.** For purposes of this policy, this term refers to ethyl alcohol or other low molecular weight alcohols, including methyl and isopropyl alcohol.

- (b) **Alcohol Concentration.** For alcohol breath testing, the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath, as indicated by an evidential breath test. The number of grams of alcohol per 210 liters of breath is equivalent to the number of grams of alcohol per 100 milliliters of blood.
- (c) **Alcohol Test.** A procedure to determine, in accordance with applicable law and policy; if a breath sample or blood specimen contains alcohol.
- (d) **Breathalyzer.** A device used to conduct an evidential breath alcohol test. The breathalyzer measures the concentration of alcohol in the blood of an individual, based on the correlation between the amount of alcohol in an individual's blood and the concentration of alcohol in the individual's breath.
- (e) **Certified Laboratory.** A laboratory which has been certified by the State of Maryland and by the U.S. Department of Health and Human Services to perform job-related forensic testing for drugs and alcohol.
- (f) **Chain of Custody.** Procedures outlined in appendix (-) which define the steps taken to guarantee the member's confidentiality and the security of the drug and alcohol testing process.
- (g) **Collection Site.** For post collision and for cause testing, a location, either OMS, or a site designated by OMS, where urine, breath and blood samples are collected from individuals for testing. Random testing will be held within a station within the battalion of the volunteer's LFRD, where urine, breath and blood samples are collected from individuals for testing. In extenuating circumstances, OMS may designate alternate locations that are located up-county, down-county, and mid-county.
- (h) **Collision.** Physical contact between an MCFRS or LFRD vehicle and another vehicle, building, person, animal or other object, if the contact results in:
 - (1) A fatality, i.e., a collision involving the loss of human life;
 - (2) Bodily injury to an individual for which the individual (including a passenger or pedestrian) receives immediate medical care away from the scene of the incident.
 - (3) Property damage in the amount of \$2,500 or more as estimated by an experienced supervisor.
- (i) **Confirmed Positive Drug Test Result.** The result of a positive immunoassay screen of a urine/blood sample and a confirmation test using gas chromatography/mass spectrometry (GC/MS), that indicates the presence of a Controlled Dangerous Substance or its metabolites above the laboratory's cut-off level, as established by the Substance Abuse and Mental Health Services Administration (SAMHSA) or the test manufacturer.
- (j) **Controlled Dangerous Substance (CDS).** A drug or substance that cannot be legally used/possessed under local, State, or federal law, or that cannot be used/possessed without a valid prescription from a licensed health care practitioner.
- (k) **Drug.** Alcohol, amphetamines, barbiturates, benzodiazepines, cannabiniods, cocaine,

ethanol, methadone, methaqualone, opiates, phencyclidine, or propoxyphene.

- (l) **Drug Abuse.** The use, in violation of Section 5 of this policy, of:
 - (1) a controlled dangerous substance, without a prescription from a licensed health care practitioner; or
 - (2) an OTC drug in a manner that does not substantially conform to the directions of the manufacturer; or
 - (3) the misuse of a prescription drug, i.e., using a prescribed medication in a manner that does not substantially conform to the direction of the prescribing health care practitioner.
 - (4) The consumption of any beverage, mixture or preparation, containing any type of alcohol, in violation of the alcohol prohibitions in Section 5. of this procedure.
- (m) **Drug Test.** A procedure conducted in accordance with applicable law or policy-to determine if a blood, urine, or other specimen contains a controlled substance or the metabolites of a controlled substance.
- (n) **LFRD Personnel.** For purposes of this policy, this defined group includes any LFRD volunteer or member who is on the most current copy of the Integrated Emergency Command Structure at the time of the event of testing or is a driver of LFRD or MCFRS vehicles.
- (o) **LFRD IECS Certified Personnel.** For purposes of this policy, this defined group includes any LFRD volunteer or member who is on the most current copy of the Integrated Emergency Command Structure (IECS) at the time of the event or testing.
- (p) **Employee Assistance Program (EAP).** A program that offers confidential counseling services to LFRD members for substance abuse, and referral to other resources for treatment at no cost to the member.
- (q) **Fire Chief.** The department head of the Montgomery County Fire and Rescue Service who is appointed by the County Executive. The Chief is responsible for implementing and enforcing Commission policies and regulations, administering all fire and rescue services provided in the County
- (r) **Illegal Drug.** A controlled dangerous substance that cannot legally be used/possessed under local, State, or federal law under any circumstances; or a controlled dangerous substance (which can be medically prescribed) that is used/possessed without a valid prescription.
- (s) **Impaired.** A state or condition less than intoxication where consumption of alcohol or drugs has affected an individual's normal coordination, judgment, or discretion. The terms "impaired" and "under the influence" are synonymous.
- (t) **LFRD Duty Day.** For purposes of conducting random drug and alcohol testing, an LFRD Duty Day is a calendar day in each week that is assigned by an LFRD Chief or designee to active IECS LFRD members, as prescribed by the Fire Chief, on which that

LFRD individual is subject to random testing.

- (u) **LFRD Fire Rescue Chief.** The senior operational chief officer of an LFRD, as established in the IECS chain of command.
- (v) **Local Fire and Rescue Department (LFRD).** An individual fire/rescue corporation that is a component of the Montgomery County Fire and Rescue Service that provides direct fire suppression, rescue, and emergency medical services.
- (w) **MCFRS Premises.** MCFRS or LFRD property, including MCFRS and LFRD vehicles.
- (x) **Medical Review Officer (MRO).** The physician contracted or employed by Montgomery County to provide medical advice regarding drug and alcohol testing, in conjunction with OMS.
- (y) **Occupational Medical Services (OMS).** The division of Montgomery County Government's Office of Human Resources that establishes random testing pools composed of LFRD personnel, and which issues bi-weekly lists of individuals selected for random drug and alcohol testing based on a scientifically valid random numbering system jointly approved by the MCVFRA and Montgomery County.
- (z) **On-Duty.** For purposes of this policy, the term "on-duty" has the same meaning as *Code of Ethics and On-Duty Personal Conduct*, Executive Regulation.
- (aa) **Over-the-Counter (OTC) Drug.** A substance produced for medical use, or for use as a health supplement, that is available for sale to the general public without a prescription from a physician or other medical practitioner.
- (bb) **Positive Alcohol Test Result.** A breathalyzer test result that evidences a breath alcohol concentration of .02 or greater.
- (cc) **Prescription Drug.** A drug that can be lawfully obtained by an individual only with the written or verbal instruction of a physician or other health care practitioner who is licensed to prescribe it for medical purposes.
- (dd) **Reasonable Suspicion.** The evidentiary standard which must be met before a "for cause" drug test is required of a volunteer in a public safety position. In order to meet this standard, the Fire Chief or supervisor must determine, based on specific objective facts and reasonable inferences drawn from these facts, that there is a reasonable basis to suspect that a test would show that the LFRD member has drugs/alcohol in his/her body.
- (ee) **Supervisor.** For purposes of this policy, a "supervisor" includes the Fire Chief, LFRD Chiefs, the Division Chief of volunteer services, volunteer certified chief officers, LFRD president, LFRD vice president, and LFRD personnel authorized to exercise supervisory authority. For purposes of for cause testing as set forth in section 7(b)(1), "supervisor" means LFRD personnel authorized to exercise supervisory authority. However, in the absence of an LFRD supervisor, and after reasonable attempts to contact an LFRD supervisor are unsuccessful, any MCFRS supervisor may administer the provisions of

section 7(b)(1) as the “supervisor”. For purposes of post-collision testing, “supervisor” means a higher ranking individual within the MCFRS Integrated Emergency Command Structure’s (IECS) chain of command.

- (ff) **Test Facility.** An independent State certified laboratory used by OMS to test urine specimens for the presence of drugs or to conduct alcohol testing.

Sec. 4. Policy. It is the policy of MCFRS to ensure a drug and alcohol free work environment for LFRD personnel to protect the health, welfare, and safety of all personnel, and the public. This policy establishes procedures for a comprehensive drug abuse and alcohol misuse program administered through MCFRS, in conjunction with OMS.

- (a) The types of Drug and Alcohol Testing conducted under this policy include:
- (1) for cause testing;
 - (2) post-collision testing;
 - (3) random testing.
- (b) The purpose of conducting random drug and alcohol testing of LFRD personnel is to ensure a drug and alcohol free work environment. Each individual must maintain his or her full ability to perform their public safety function, and must not be adversely affected by, or be under the influence of, alcohol or drugs.

Sec. 5. Drug and Alcohol Prohibitions that Apply to all LFRD Personnel.

- (a) LFRD personnel must not:
- (1) violate any of the provisions of the *Code of Ethics and On-Duty Personal Conduct*, that regulate the use of drugs and alcohol by MCFRS LFRD members, including non-prescription medications;
 - (2) have illegal drugs in their body while on-duty (above the laboratory's established cut-off levels);
 - (3) take illegal drugs or misuse prescription drugs or nonprescription drugs (misuse includes impairment caused by misuse) while on-duty, on MCFRS premises, or in an MCFRS, or LFRD vehicle;
 - (4) consume alcohol while on duty except as permitted by the Code of Ethics and On Duty Personal Conduct Regulation;
 - (5) Have illegal drugs or alcohol in their bodies or be impaired by, or be under the influence of, alcohol, drugs or controlled dangerous substances while on MCFRS property, or while on-duty;
 - (6) operate MCFRS or LFRD vehicles or heavy or dangerous equipment with illegal drugs in their bodies, while impaired by the misuse of prescription or non-prescription drugs, or while impaired by, or under the influence of, alcohol;

- (7) consume alcohol, or have open containers of alcohol while on-duty in MCFRS or LFRD vehicles;
 - (8) report for duty while having an alcohol/breath concentration of 0.02 or greater;
 - (9) remain on-duty while having an alcohol/breath concentration of 0.02 or greater;
 - (10) consume alcohol within four hours of the start of the individual's volunteer shift;
 - (11) use alcohol during the 4-hour period before the individual performs safety-sensitive functions;
 - (12) possess, purchase, manufacture, sell, offer for sale, or give to another, illegal drugs on MCFRS property, or in an MCFRS or LFRD vehicle;
 - (13) take for personal use or for sale, drugs prescribed for patients or for other persons with whom the individual comes in contact in the course of the performance of the individual's duties;
 - (14) take for personal use or for sale, drugs or alcohol belonging to MCFRS for which the individual is responsible as part of his/her duties;
 - (15) obtain alcohol or drugs by threats or promises of favors based on the authority of the individual's position in the Fire and Rescue Service; or
 - (16) tamper with or adulterate the individual's own urine specimen submitted for drug testing, or substitute someone else's urine specimen, or a different substance, for the individual's own specimen.
- (b) An MCFRS individual who commits an act prohibited in subsection (a) above, has violated this policy, and is subject to appropriate discipline in accordance with Chapter 21 and the directly negotiated agreement between the County and MCVFRA.

Sec. 6. Reporting Requirements and Requirements for Prescription or OTC Drugs.

- (a) Reporting Required of all LFRD members charged with, or convicted of drug or alcohol-related offenses.
- (1) Personnel who are charged with or convicted of a drug/alcohol related offense must report any such charge or conviction to their LFRD department head or designee within 5 calendar days of when the individual receives the criminal or traffic charge or conviction. Conviction includes a plea of nolo contendere or any imposition of a sentence for having manufactured, distributed, dispensed, used, or possessed any controlled dangerous substance, or alcohol. A conviction does not include probation before judgment. The department head of the member's LFRD shall take the appropriate action in accordance with Chapter 21 and the directly negotiated agreement between the County and MCVFRA.

(b) **Prescribed Drugs and Over the Counter Medications.**

- (1) Members who are taking any prescription drugs on the advice of a licensed health care provider, or non-prescription drugs that may affect their ability to perform based on a warning in the product description, must report such information to their supervisor.
 - (2) The Occupational Medical Section must be consulted to determine the side effects of such drugs, particularly their potential effect on member performance.
 - (3) The use of drugs which may have side effects that impair the performance of the member may require the supervisor to place the employee on an alternate duty status.
- (c) An individual who fails to satisfy any of the requirements of this section is subject to appropriate disciplinary action in accordance with Chapter 21 and the directly negotiated agreement between the County and MCVFRA.

Sec. 7. Drug and Alcohol Testing.

- (a) Required forms that may be completed in advance and used when appropriate.
- (1) The forms below are used for: (1) for cause testing; (2) post-collision testing; or (3) random drug and alcohol testing. Before any drug or alcohol test is conducted under this policy, individuals must complete Form #1 and Form # 2. Before a breath alcohol test is administered, they must also complete Form # 3. Copies of Forms # 1, # 2, and # 3 are attached at Appendix A. These forms are described in subsections A, B, and C, below.
 - (A) Form #1, Authorization to Conduct Drug Test, states that as a condition of employment or volunteering, the individual consents to the test, and states the name and address of the laboratory that will analyze the urine specimen. Form #1 also serves as the chain-of-custody form that accompanies the individual's urine specimen to the laboratory. This form also allows the individual who has been tested to have part of his/her specimen sent to another laboratory for testing at the individual's expense, if the test result is confirmed positive.
 - (B) Form #2, Authorization for the Release of Information Relating to Drug Testing, enables OMS to report the results of the test to the Fire Chief or designee and LFRD department head.
 - (C) Form #3, "Authorization to Conduct Alcohol Test," states that when subjected to alcohol testing, the individual consents to the alcohol test, and to release the result of the test to the Fire Chief or designee and LFRD department head.
 - (2) Forms to authorize law enforcement agencies to report the results of post-collision and post-arrest drug and alcohol testing.

- (A) All LFRD personnel must complete Form # 4, which is attached as a part of Appendix A. Form # 4 authorizes law enforcement agencies, which have conducted drug and alcohol tests for law enforcement purposes, to release the results of such tests to the MRO/OMS, and authorizes the MRO/OMS to release the results of the tests to the Fire Chief or designee and LFRD department head. Failure or refusal to complete Form #4 will subject the individual to disciplinary action.
- (3) When an individual is subjected to drug and alcohol testing, if the individual refuses to complete and sign a required form, the failure to complete the form will be considered a refusal to submit to drug and alcohol testing.
- (4) Each individual will be given a copy of each form that he or she has completed.
- (b) Types of Drug and Alcohol Testing.
 - (1) All LFRD personnel are subject to for cause testing based on reasonable suspicion that the individual violated the drug and alcohol prohibitions contained in Section (5) of this policy. Under such circumstances, a supervisor may order and individual to submit to drug and alcohol testing
 - (A) The Role of the Supervisor.
 - (i) When possible, two supervisors at the work site should observe the behavior of the individual, or review the information provided by other persons who have observed the suspicious behavior of the individual, before a supervisor, when the definition for reasonable suspicion is met, orders the individual to submit to a drug/alcohol test.
 - (B) Status of LFRD members referred to for cause testing.
 - (i) A supervisor must accompany the individual who is to be tested to the testing.
 - (ii) During the period between the day of the test and the date on which the Fire Chief or designee, LFRD Chief, or department head, are informed of the results of the drug or alcohol test, the individual must be placed in an administrative status and must not participate in any MCFRS activity or be present on or in any MCFRS property. The results must be reported within a reasonable period of time with no deliberate or inexcusable delays.
 - (C) All for cause alcohol testing will be conducted by using a breath alcohol

testing device.

- (D) When for cause drug testing is conducted, the tested individual will be required to provide a urine specimen at the designated testing site.
 - (E) All for cause testing must be administered in a reasonably timely manner.
- (2) All LFRD personnel are subject to post-collision testing for drugs and alcohol if a collision occurs when operating an MCFRS or LFRD vehicle.
- (A) Post-Collision Drug and Alcohol samples for testing must be collected within a reasonable time after the collision but must be within 32 hours of the collision. If a drug or alcohol test is not administered within 32 hours after the collision, attempts to administer the test must cease and the supervisor must prepare a written report stating why the test was not properly administered and provide to the Fire Chief within 72 hours of the collision. The results must be reported within a reasonable period of time with no deliberate or inexcusable delays.
 - (i) The supervisor on the scene of the collision must ensure that the LFRD operators of all MCFRS or LFRD vehicles involved in the collision submit to drug and alcohol tests as described in this policy.
 - (ii) A supervisor or appropriate designee must accompany the individual who is to be tested to the testing site.
 - (B) Post-Collision Drug and Alcohol Tests Conducted by Law Enforcement Agencies.
 - (i) The results of post collision drug and alcohol tests conducted by, or at the request of, federal, State, or local law enforcement agencies having independent authority to conduct the tests will be considered post-collision tests, provided that the tests conform to applicable federal, State and County requirements. The Fire Chief or designee will ask the law enforcement agency to report all drug and alcohol test results directly to the MRO who must report the results to the LFRD department head. The results from the tests will be handled in the same manner as if OMS or its designee had conducted the test.
 - (ii) LFRD Department heads must ensure that all LFRD personnel receive Form # 4 within five days after being appointed to a position or membership in the LFRD. LFRD personnel must complete Form #4 within sixty (60) days after receipt of the form, and they must execute an updated Form # 4 every 5 years. LFRD Department heads must also ensure that the completed Form # 4 is maintained in the files of LFRD personnel; this form remains in

effect for 5 years. An individual who refuses to complete Form # 4 when requested by his/her supervisor is subject to appropriate disciplinary action.

(C) Post-Collision Responsibility of LFRD personnel.

- (i) The operators of all MCFRS and LFRD vehicles involved in a collision must remain on-duty and readily available for post-collision alcohol/drug testing until released by the on-scene supervisor at the scene of the collision. Therefore, all operators of MCFRS and LFRD vehicles involved in a collision must consider themselves under an order to remain at the scene of the collision until relieved or dismissed by the on-scene supervisor.
- (ii) If the operator of the MCFRS or LFRD vehicle does not remain available for testing, the supervisor on the scene must consider this behavior as a refusal to submit to post-collision alcohol and drug testing. If the operator of an MCFRS vehicle leaves the scene of the collision before being released by the on-scene supervisor, he/she will be subject to disciplinary action for insubordination.
- (iii) Subsections i. and ii. above must not be applied to delay necessary medical attention for an injured person, or to prohibit an individual from leaving the scene of the collision for the period necessary to request emergency assistance.
- (iv) If, after a collision, an individual is arrested and subjected to breathalyzer, urine, or blood testing for alcohol or drugs at the direction of a law enforcement officer, the MCFRS individual has met their responsibilities for post-collision testing.
- (v) The LFRD department head must be notified via phone, email or radio of a collision involving their LFRD member within a reasonable amount of time.

(3) Drug and Alcohol Tests Conducted by Law Enforcement Agencies.

- (A) If an MCFRS individual is tested by a law enforcement agency in connection with a traffic charge for driving an MCFRS vehicle outside the County while under the influence of alcohol or drugs, the individual must authorize the Fire Chief or designee and LFRD department head to obtain the test result from that law enforcement agency. The LFRD personnel who is subjected to drug or alcohol testing by a law enforcement agency must report the fact that he/she has been tested to the supervisor within 5 calendar days after the test was administered.
- (B) All LFRD personnel must complete Form # 4, attached as a part of Appendix A. This form authorizes out-of-County law enforcement

agencies that have conducted drug and alcohol tests for law enforcement purposes to release the test results to the MRO/FROMS, and authorizes the MRO/FROMS to release the test results to the Fire Chief and the IAO.

- (C) LFRD Department heads must ensure that all LFRD personnel complete Form # 4 when directed. LFRD personnel must complete Form # 4 within sixty (60) days after this policy becomes effective, or when they initially become LFRD personnel, and must execute an updated Form # 4 every five years. The LFRD Department heads must also ensure that the completed Form # 4 is retained in the file of the individual for a 5 year period. An individual who refuses to complete Form # 4 when requested by his/her supervisor is subject to appropriate disciplinary action.

(4) Random Drug and Alcohol Testing of LFRD Personnel.

(A) Procedure for Selecting Personnel for Random Testing.

- (i) Each LFRD Chief must assign an LFRD Duty Day to each member of the LFRD who is IECS certified as prescribed by the Fire Chief or DVS Division Chief. Each LFRD Chief will provide the DVS Division Chief with a current list of all members of the LFRD, at least four times each year on a schedule established by the DVS Division Chief. This list will identify each IECS member's assigned LFRD Duty Day, as prescribed by the DVS Division Chief, during which the individual must be available for testing. The DVS Division Chief will use the lists provided by the LFRD Chiefs to develop a composite list of all LFRD members of MCFRS who are subject to random drug and alcohol testing.
- (ii) During an approved time span on the LFRD Duty Day, the member will be on stand-by status. Therefore, during this approved time span on the LFRD Duty Day the LFRD member must not consume alcohol or illegal drugs.
- (iii) On a quarterly basis, the DVS Division Chief will provide the Fire Chief or designee with a current list of all IECS LFRD personnel of MCFRS. This master list of all IECS LFRD personnel will also include each individual's assigned station assignment and his/her LFRD Duty Day with the approved time span.
- (iv) Based on the master list provided by the DVS Division Chief, the Fire Chief or designee will create the LFRD Duty Day list that will be used to formulate daily testing lists. IECS LFRD members may only be randomly tested on their assigned LFRD duty day.
- (v) On a quarterly basis, the Fire Chief or designee will provide OMS with a current list of all LFRD personnel. OMS will use this list to establish the random testing pool for LFRD personnel who are

subject to testing on their assigned LFRD duty day.

- (vi) Bi-weekly, OMS will provide the Fire Chief or designee with a sealed list of individuals who have been randomly selected from the list of LFRD members, based on an established scientifically valid numbering system. OMS will sequentially number the names of the individuals on the list. The sealed list will include names selected from the LFRD random pool. OMS will select individuals for random testing in accordance with the procedures established in this policy. In attempting to select up to approximately 25% of the average total number of LFRD personnel for random testing each year, OMS must ensure that the numbers of individuals tested are spread reasonably throughout the entire calendar year.
- (vii) Up to approximately 1/25 of 25% of the total number of individuals on the current OMS list of LFRD personnel will be tested during each bi-weekly testing period. On the sealed list of selected names, OMS will provide the Fire Chief or designee with the total number of individuals who must be tested from that list to accomplish the goal of testing up to approximately 1/25 of 25% of the individuals in the random pool during the testing period. In other words, each list of names will also state how many (e.g., “5,” “10,” or “15”) individuals must be tested during the bi-weekly testing period to equal up to 1/25 of 25% of the total number of individuals in the random testing pool.
- (viii) The randomly selected list of names from the LFRD random pool will comprise approximately 1/12 of 25% of the total number of individuals on the current OMS list of LFRD personnel. The two randomly selected lists will comprise twice as many names as are necessary to satisfy the requirement of testing approximately 1/25 of 25% of the total number of LFRD personnel. OMS will provide these extended lists so that if a substantial number of the individuals selected is unavailable for testing, there will be sufficient names available to meet the testing requirement.

(B) Procedure for Selecting LFRD personnel for Random Testing.

- (i) When the Fire Chief or designee receives the bi-weekly list of randomly selected LFRD personnel from OMS, he/she will cross-reference that list with the LFRD Duty Day list. Any LFRD personnel who are on the OMS randomly selected list for that assigned bi-weekly period, and who are on the LFRD Duty Day list during that period, will be subjected to drug and alcohol testing on their LFRD Duty Day.
- (ii) The FROMS list of LFRD personnel selected for random testing

during the bi-weekly testing period will provide the Fire Chief or designee with the total (absolute) number of LFRD personnel to be tested during the bi-weekly period. The total number of LFRD members who must be tested equals approximately 1/25 of 25% of the total number of LFRD members in the random testing pool.

- (iii) From the bi-weekly list of randomly selected LFRD personnel, the Fire Chief or designee will develop a LFRD daily testing list for each day within the bi-weekly testing period. This is a list of the LFRD personnel who are identified for testing on that day. The Fire Chief or designee will provide OMS with the names and locations of the LFRD personnel who are on the LFRD daily testing list. LFRD personnel must report to the collection site on their LFRD duty day if selected for testing.
- (iv) In developing an LFRD daily testing list of individuals for the first day of the bi-weekly testing period, the Fire Chief or designee will first determine the day of the week on which the first day of the testing period falls, and will then determine which individuals assigned LFRD Duty Day coincides with that day of the week. He/she will then develop a daily testing list for the first day of the bi-weekly testing period by identifying those individuals named on the OMS bi-weekly random testing list whose LFRD Duty Day coincides with the first day of the bi-weekly testing period. The names of these individuals will be placed on the first daily testing list in the order in which they appear on the OMS-provided sequentially numbered list of individuals selected for random testing. The member may only be tested on their regularly scheduled duty day during their assigned duty hours.
- (v) The Fire Chief or designee will give the first daily testing list to OMS. The information provided on the daily testing list will include each selected individual's name and the on duty time frame within which each individual must be available for random drug testing.
- (vi) OMS is expected to make reasonable efforts to test LFRD personnel identified on the daily testing list in the order in which their names appear, but OMS is not required to test the individuals on the list in exact sequential order.
- (vii) If the individual's failure to report for testing is not excused by extenuating circumstances, he/she will be subject to appropriate discipline in accordance with Chapter 21 and the directly negotiated agreement between the County and MCVFRA. An individual who is unable to report for drug and alcohol testing when directed to do so because of the following circumstances will be considered unavailable for testing that day.

- (1) The member is on previously scheduled and approved leave in accordance with a written LFRD policy.
 - (2) Other extenuating circumstances approved by the LFRD department head and the DVFS division chief.
- (viii) The LFRD Duty Officer or designee must inform the Fire Chief or designee if he/she is unable to contact a selected individual who is on an LFRD Duty Day subject to subsections (vii) or (ix) in this section. Any LFRD individual on an LFRD Duty Day who cannot be contacted for drug and alcohol testing will be considered in violation of this policy and is subject to appropriate disciplinary action in accordance with Chapter 21 and the directly negotiated agreement between the County and MCVFRA.
- (ix) If an individual is unavailable to report for testing on his/her first LFRD Duty Day during the bi-weekly testing period, and if there is a reasonable expectation that he/she may be available for testing later within the bi-weekly testing period, then the Fire Chief or designee will place his/her name on a later daily testing list for a day that corresponds to the individual's second or third LFRD Duty Day falling within the same bi-weekly testing period.
- (x) All random testing of IECS LFRD personnel within a bi-weekly testing period will end when OMS has collected specimens and samples from that number of LFRD members which equals the absolute number of IECS LFRD members who must be tested within the bi-weekly testing period in order to satisfy the requirement of testing approximately 1/25 of 25% of the total number of LFRD members in the stipulated random testing pool.
- (xi) If an individual is tested within the bi-weekly testing period, even if he/she had been unavailable for testing on specific occasions earlier in the bi-weekly period, the final official records of the Fire Chief or designee for that testing period will not reflect that the individual had been previously unavailable for testing during the bi-weekly period. All previous instances of unavailability during that testing period will not be counted against that individual.
- (xii) Whenever the Fire Chief or designee or LFRD department head determines that an individual has been unavailable for testing during an entire bi-weekly period, the individual's unavailability status will be counted toward the three consecutive unavailability determinations that will cause the individual to be placed in the "LFRD members previously unavailable for testing" pool

identified in Subsection (4)(B)(IX) above.

- (xiv) If an individual has been unavailable for testing during the last three consecutive bi-weekly periods when OMS selected him/her for random testing, he/she will be placed in a special testing pool, known as the “LFRD members previously unavailable for testing” pool. This pool will be developed and maintained by the Fire Chief or designee, separate from the OMS random selection pools.
- (xv) If an individual is placed in the “LFRD members previously unavailable for testing” pool, the Fire Chief or designee will monitor the individual’s volunteer participation, and may direct the OMS to add the individual’s name to, selected bi-weekly testing lists until the individual is tested. The individual will remain in the “LFRD members previously unavailable for testing” pool until he/she has been tested. Once the individual has been subjected to drug and alcohol testing, his/her name will be removed from the “LFRD members previously unavailable for testing” pool. A “previously unavailable” individual will be tested without regard to the sequential order in which randomly selected individuals are generally tested.

(C) Procedure for Conducting Random Testing of LFRD members.

- (i) Before testing, the individual will be provided with pre-printed information sheets describing the test procedures and explaining the purposes for which the test results will be used. OMS will direct the individuals who are to be tested to complete Forms #1, #2, and #3, as required by Section (7)(a) of this policy, and require the individual to present a valid form of identification.
- (ii) An individual who is in a stand-by status on his/her LFRD Duty Day and who refuses to report for drug and alcohol testing when contacted and directed to report by the LFRD Duty Officer or designee, or who fails to report for testing within 1 hour of the time of notification, will be considered in violation of this policy. He/she is subject to appropriate disciplinary action, in the absence of extenuating circumstances, as discussed in Section (B) (vii), above.
- (iii) When an individual on a daily testing list who is on-duty at his/her assigned MCFRS premises on his/her assigned LFRD Duty Day refuses the direction of a supervisor, to submit to drug and alcohol testing, the refusal will be considered as a positive test result, and the individual will be subjected to appropriate disciplinary action in accordance with Chapter 21 and any directly negotiated agreement between the County and MCVFRA.

- (iv) If it is determined that an individual who was tested has provided an adulterated urine specimen, or a urine specimen that was not his/her own, appropriate disciplinary action will result in accordance with Chapter 21 and any directly negotiated agreement between the County and MCVFRA.
- (v) All LFRD members will be treated with dignity and discretion during the testing process.

(c) Collection of Urine Specimens for Drug Testing by OMS

- (1) OMS must ensure that the collection of urine specimens is conducted under procedures that comply with DOT regulations at 49 CFR Part 40, as amended, which are incorporated into this policy by reference. The specimen collection procedure must ensure that: each urine specimen is properly identified and protected from contamination or tampering; each urine specimen is secure; the chain-of-custody is established, maintained, protected, and recorded for each specimen; and split sample procedures are regularly followed.
- (2) Specimens for drug testing must be collected under controlled circumstances that reduce the opportunity to tamper with the specimen or substitute a different specimen. This process must include reasonable accommodations for privacy. A tester of the same sex may accompany the individual to be tested into a bathroom and provide a container for specimen collection.
- (3) Drug specimens must be tested to determine if they have been diluted or adulterated. If OMS or its designee reasonably believes that a collected urine specimen has been adulterated or another specimen substituted, he/she will, while the individual being tested is still in the representative's presence, determine whether to order the immediate collection of a second specimen under the provisions of subsection h., below.

(d) Procedures for Laboratory Testing of Drug Specimens Obtained by OMS.

- (1) All laboratory drug testing of specimens collected for post-collision testing, for cause testing, or random testing, must comply with DOT regulations at 49 CFR Part 40, as amended, which are incorporated into this policy by reference.
- (2) OMS will designate the laboratories that are authorized to conduct drug testing, which must be certified by both the State of Maryland, and the U.S. Department of Health and Human Services (DHHS) to perform job-related forensic testing for drugs.
- (3) The County must have a copy of 49 CFR Part 40, as amended, available to give to any individual, or the individual's representative, who requests it. The DOT regulations describe:

- (A) the procedures that will be used to:
 - (i) test for the presence of drugs;
 - (ii) test for the presence of alcohol;
 - (iii) protect the employee and the integrity of the drug and alcohol testing processes;
 - (iv) safeguard the validity of the test results; and
 - (v) ensure that the test results are attributed to the correct individual.
 - (B) an individual's right to access his/her drug and alcohol testing records; and
 - (C) the required qualifications, role, and responsibilities of the medical review officer, substance abuse professional, collection site, OMS, FROMS and laboratory.
- (4) LFRD personnel will be tested for the drugs/substances listed in subsections (A) through (J) below. A urine specimen obtained for post-collision, random, or for cause drug testing will be subjected to an immunoassay screen for the substances below or their metabolites:
- (A) amphetamines;
 - (B) barbiturates;
 - (C) benzodiazepines;
 - (D) cannabinoids (marijuana);
 - (E) cocaine;
 - (F) methaqualone (quaalude);
 - (G) methadone;
 - (H) opiates;
 - (I) phencyclidine (PCP); and
 - (J) propoxyphene (Darvon).
- (5) If an immunoassay screen is positive for any substances tested, a confirmation test using gas chromatography/mass spectrometry (GC/MS) will be conducted.
- (e) Breath Alcohol Testing Procedures.
- (1) When OMS conducts alcohol testing under this policy, the breath testing will be administered at a testing site authorized by OMS.
 - (2) Some post-collision alcohol testing will be conducted by law enforcement authorities, or at hospitals or other health care facilities.
 - (3) Post-arrest alcohol testing will be conducted by law enforcement authorities.
 - (4) All breath alcohol testing conducted by OMS under this policy must comply with

DOT regulations at 49 CFR Part 40, as amended, which are incorporated into this policy by reference.

- (5) Breath alcohol testing conducted under this policy will be administered by a breath alcohol technician who has been trained to proficiency in:
 - (A) the use of the evidential breath testing devices used; and
 - (B) breath-testing procedures required by the U.S. Department of Transportation at 49 CFR Part 40.
 - (C) Must not be a member of the MCFRS.
- (6) All evidential breath testing devices used for testing under this policy will be on the list of those approved by the U.S. Department of Transportation, or an agency of the U.S. Department of Transportation.
- (7) Breath alcohol testing conducted under this policy must be performed in a location that provides a level of privacy to the individual being tested that is sufficient to prevent unauthorized persons from witnessing the testing, or from seeing or hearing the test results.
- (8) Unauthorized persons will be prohibited access to the breath testing site or testing equipment when the evidential breath testing equipment is unsecured, or when testing is being conducted.
- (9) An initial screening breathalyzer test will be conducted. If the result of the test is a breath alcohol concentration of less than .02, the test is considered negative and no further testing is authorized.
- (10) If the result of the screening test is an alcohol concentration of .02 or greater, OMS will report the positive result to the individual tested immediately after the screening test is completed. Also, if the result of the screening test is an alcohol concentration of .02 or greater, a confirmation breathalyzer test must be conducted within 20 minutes, but not less than 15 minutes after the completion of the screening test. The individual must be instructed not to eat, drink, or put any object or substance in the mouth during the waiting period, but the confirmation test must be conducted even if the individual disregards these instructions. If the result of the screening test is an alcohol concentration of .02 or greater, the tested individual will be restricted from participating in any unapproved activity during the waiting period between the screening test and the confirmation test.
- (11) If the result of the confirmation breathalyzer test is an alcohol concentration of .02 or greater, the breath alcohol test will be reported as positive.
- (12) If the individual asserts that he/she is unable to provide enough breath to conduct the test because of a medical condition, the test will not be conducted and the individual must obtain an evaluation and a written report from a licensed

physician concerning his/her ability or inability to provide enough breath for the test. If his/her inability is not supported by a medical evaluation, the failure to provide sufficient breath will be regarded as a refusal to take an alcohol test. If the individual's inability to provide sufficient breath is supported by a medical evaluation, the individual must be removed immediately from the IECS, and must pass a medical evaluation as it relates to the inability to provide breath for the breathalyzer test and a Self Contained Breathing Apparatus fit test before being reinstated to the IECS list.

(f) Blood Alcohol Testing.

- (1) Blood alcohol testing will be conducted under this policy only if authorized by law.
- (2) Blood specimens will be tested by gas chromatography (GC) to determine the blood alcohol concentration.

(g) Drug Test Results when Drug Testing is conducted by OMS.

- (1) The provisions of this subsection apply only to drug testing conducted by OMS or its designee.
- (2) A positive drug test result indicates that the presence of a drug or its metabolite was measured and confirmed at or above a predetermined cutoff level. If a substance is present at a level below the predetermined cutoff, the laboratory will report the test result as negative. The cutoff level for a substance is established by the Substance Abuse and Mental Health Services Administration (SAMHSA), or the test manufacturer.
- (3) The laboratory must report all drug test results in writing to the Medical Review Officer (MRO). OMS will report negative drug test results to the individual tested and to the appropriate authorities, as specified in subsection (g)(7), below. Positive drug test results will be reviewed by the MRO along with the individual's medical history, and other relevant information. LFRD personnel may be asked to submit documentation from a treating physician if the MRO believes that the test results may have been influenced by prescription drugs, or other medications or treatments.
- (4) If the MRO determines that there is a legitimate medical explanation for a positive test result and that there is no evidence of drug abuse, the test result will be reported to the Fire Chief or designee and LFRD department head as negative.
- (5) A positive test result will be reported as a confirmed positive test result only after the MRO has reviewed the medical history and other information submitted by the individual tested, and the MRO has concluded that the test result was due to the use of drugs in violation of this policy.
- (6) OMS will maintain drug test results as part of the individual's medical records. These results will be treated as confidential medical information, and will be

disclosed only to the persons identified in subparagraph 7. below.

- (7) OMS must give a copy of the laboratory report to the individual who has a confirmed positive test result. The laboratory report must be presented promptly, and within 30 calendar days of the date when the urine or blood specimen was collected. The report will be given to the individual in person, or sent by certified mail to the address he/she has provided on Form #1. OMS will also provide written notice that he/she is entitled to have a verification test conducted on the same specimen by a different certified laboratory, at his/her own expense. The verification test will be conducted on a portion of the original specimen. No new specimen will be collected for verification testing.
- (8) OMS will wait 10 calendar days for the tested individual to report to OMS to sign the necessary form authorizing OMS to send a split sample to an independent laboratory for independent verification testing. If the individual does not complete the required form within 10 days, a letter and a copy of the official test results are sent to him/her by certified U.S. Mail. When the official test results are mailed to the individual, written notification of the positive results will also be sent to the, Fire Chief or designee and LFRD department head, as specified in subsection (g)(10) below. If, however, the tested individual completes the OMS form requesting verification testing, OMS will not report the positive test results to the Fire Chief or designee and LFRD department head, pending notification that the verification test has been completed.
- (9) If the individual who has a confirmed positive drug test result elects to have an independent verification test conducted by a different laboratory certified by the Maryland Department of Health and Mental Hygiene, and the result of the independent verification test is negative, the results of the verification test will override the previously reported confirmed positive test result. The final test result will be considered negative, and will be reported as negative, and the individual will be reimbursed for the cost of the independent verification test.
- (10) OMS will report whether drug test results were negative or confirmed positive to the individual, and to the appropriate authorities, as specified below. In the case of a confirmed positive test result, OMS will also report the identity of the drug that was present in the urine specimen. OMS will report the drug test results to the individual before the results are reported to the Fire Chief or designee and LFRD department head, unless OMS is unable to reach the individual within 72 hours.
 - (A) For LFRD personnel, the Fire Chief or designee is the appropriate authority to receive notification of drug test results. The Fire Chief or designee must promptly notify the appropriate LFRD department head of the drug test results.
- (11) A urine specimen which tests positive for drugs will be frozen and preserved by the laboratory for one year, or until all actions or appeals resulting from the

positive test result are concluded.

(h) Collecting a Second Specimen from a Tested Individual when OMS or the MRO order a “Re-collection.”

- (1) If the MRO finds that the drug test result may have been affected by prescription drugs or other substances to which the individual tested was exposed, he/she may be contacted and required to submit a second specimen for testing. If the collection of a second specimen is ordered, the result of the second test will override the result of the first test.
- (2) OMS or the MRO may also require the collection of a second specimen if the first urine specimen was lost, contaminated, or adulterated, or if there is reason to believe that the urine specimen did not belong to the tested individual. If the drug/alcohol tester detects a potential irregularity in the specimen under the provisions of (c)(4) above, the individual may be ordered to provide a second specimen on the same day that the first specimen was collected. This re-collection will be conducted by using direct observation procedures.
- (3) If the collection of a second specimen is ordered, OMS or its designee, must give a written statement of the reasons for the re-collection to the individual who is directed to undergo a re-collection.

(i) Drug Test Results when Drug Testing is conducted by Law Enforcement Agencies or at Hospitals.

- (1) Drug test results obtained by the Fire Chief from law enforcement agencies or hospitals will be reported directly to the MRO for review. This review will be conducted under the same guidelines applicable to drug tests conducted by OMS.
- (2) The Fire Chief or designee will ask law enforcement agency or hospital to report all drug test results directly to the MRO. OMS will report negative drug and alcohol test results to the LFRD member and to the Fire Chief or designee who will then promptly report them to the LFRD department head. The MRO will review positive drug test results along with the individual’s medical history, and other relevant information. LFRD members may be asked to submit documentation from a treating physician if the MRO believes the test results may have been influenced by appropriate use of prescription drugs, or by other medications or treatments.
- (3) If the MRO determines that there is a legitimate medical explanation for a positive test result and that there is no evidence of drug abuse, the test results will be reported to the Fire Chief or designee, who will promptly notify the LFRD department head of that result.
- (4) A positive test result obtained from a law enforcement agency or hospital will be reported as a confirmed positive test result only after the MRO has reviewed the medical history and other information submitted by the LFRD member, and the

MRO has concluded that the test result was due to the use of drugs in violation of this policy.

(j) Alcohol Test Results when Alcohol Testing is conducted by OMS.

- (1) After breathalyzer testing is completed, OMS will report the test result on a standardized breath alcohol test result form. The result will be reported in hundredths of a gram of alcohol (.02 or greater) per 210 liters of breath. OMS will report the breath alcohol test result to the individual tested immediately after the test is completed, by giving him/her a copy of the alcohol test result form.
- (2) If an individual's alcohol test result is positive (.02 or greater), OMS will immediately notify the Fire Chief or designee who will promptly notify the LFRD department head of that result.

(k) Refusal to Submit to Drug or Alcohol Testing.

- (1) An individual's refusal to submit to drug or alcohol testing will be considered the equivalent of a confirmed positive drug test result, or an alcohol test result of an alcohol concentration of .02 or higher.
- (2) Any of the conduct below on the part of an MCFRS individual is considered a refusal to submit to drug or alcohol testing:
 - (A) refusing to provide a urine or breath sample for testing when directed to do so under the provisions of this policy;
 - (B) failing to provide a urine or breath sample, unless the individual is genuinely unable to provide a specimen, as confirmed by a written medical evaluation;
 - (C) engaging in conduct that clearly obstructs the drug or alcohol testing process, or that makes the test impossible to administer;
 - (D) failing to remain available for post-collision testing; or
 - (E) refusing to complete and sign the required drug or alcohol testing forms.

Sec. 8. Consequences of positive drug or alcohol test results.

(a) A positive drug or alcohol test result (including a refusal to submit to testing) will have the following consequences for LFRD members:

- (1) LFRD personnel who receives a confirmed positive drug test result, and/or a confirmed positive alcohol test result (.02 or greater), are subject to appropriate disciplinary action under this policy, and other applicable County laws and regulations, LFRD and MCFRS policies and regulations, up to and including dismissal in accordance with Chapter 21 and any directly negotiated agreement

between the County and MCVFRA.

- (2) LFRD personnel who refuse to submit to drug or alcohol testing are subject to appropriate disciplinary action under this policy, and other applicable County laws and regulations, LFRD MCFRS policies and regulations, up to and including dismissal in accordance with Chapter 21 and any directly negotiated agreement between the County and MCVFRA.

Sec. 9. Rights of Individuals who are subjected to Drug or Alcohol Testing.

- (a) An individual subjected to alcohol testing under this policy must be provided with the information below before alcohol testing is conducted:
 - (1) the reason(s) for administering alcohol testing;
 - (2) that if the individual refuses to be tested, he or she will be subjected to appropriate disciplinary action; and
 - (3) that breathalyzer testing produces immediate results, and that the breath sample is not sent to a laboratory for drug testing.
- (b) An individual subjected to drug testing under this policy must be provided with the information below before drug testing is conducted:
 - (1) the reason(s) for administering drug testing;
 - (2) the name and address of the laboratory that will test the urine specimen for drugs;
 - (3) a copy of the laboratory report;
 - (4) a copy of this policy;
 - (5) that if the result of the test is confirmed as positive, the individual is entitled to have a verification test conducted on the same specimen, or a split specimen, by a different certified laboratory, at his or her expense; and
 - (6) Under no circumstances should the test results be revealed to any unauthorized individuals, without the prior written authorization of the member tested. All results are to be kept confidential and will not be divulged except authorized officials cited in this policy.
- (c) Rights of LFRD members who are members of the MCVFRA under the directly negotiated agreement, if they are subject to disciplinary examinations about drug or alcohol use, or about other suspected violations of this policy:
 - (1) If the Fire chief, DVS division chief, or any MCFRS representative other than the individual's LFRD conducts a disciplinary examination of a LFRD member as defined by Article 1 of the directly negotiated agreement between the County and

MCVFRA about drug or alcohol use, or about a suspected violation of this policy the MCFRS representative must:

- (A) Allow, if requested, the member to be represented at the disciplinary examination to the extent allowed by the directly negotiated agreement; and
- (B) Consistent with Article 7 Section 9 of the directly negotiated agreement, give the member a reasonable period of time to obtain MCVFRA representation.

Sec.10. Maintenance and Review of Records Related to Drug and Alcohol Testing.

- (a) All individual drug and alcohol testing records of MCFRS individuals are considered confidential, and access to these records must be controlled on a need-to-know basis.
- (b) OMS must:
 - (1) maintain all records related to the drug and alcohol testing of LFRD personnel in a secure place with controlled access;
 - (2) allow a drug and alcohol testing record to be reviewed by the tested individual at a time mutually convenient to the OMS representative and the individual; and
 - (3) allow a drug and alcohol testing record to be reviewed only by an individual who needs to know the information in that record to make an administrative decision on the basis of the information. These individuals may include:
 - (A) the Fire Chief or designee;
 - (B) an employee of the Office of Human Resources;
 - (C) an employee of the Office of the County Attorney;
 - (D) an MCVFRA representative, or other representative of the individual, if the individual gives written authorization to release the record; or
 - (E) an individual to whom the release of the record is required or authorized by law.

Sec. 11. Comprehensive Training Program on Drug and Alcohol Issues.

- (a) The MCFRS must develop a comprehensive training program on drug and alcohol issues for in-station or on-line training that includes:
 - (1) mandatory training for supervisors to enable them to fulfill their responsibilities under this policy; and

- (2) training for LFRD personnel on the provisions of this policy, including information about the dangers of drug abuse and alcohol misuse, and information about the resources available for treatment and rehabilitation.

Sec. 12. Responsibilities.

(a) The Fire Chief must:

- (1) ensure that training is made available for supervisors;
- (2) ensure that information concerning collection sites designated by OMS is available to MCFRS supervisors, including the address as well as the hours when the site may be used to conduct drug and alcohol testing;
- (3) ensure that MCFRS supervisors receive required training on procedures for addressing drug and alcohol abuse;
- (4) ensure that LFRD personnel receive appropriate training regarding drug and alcohol abuse;
- (5) take appropriate adverse or disciplinary action against individuals who violate this policy.

(b) Supervisors must:

- (1) ensure that the LFRD personnel completes the necessary pre-test forms, when he/she is tested; and
- (2) refer an individual to the EAP for assessment, and for referral for treatment, if he/she has acknowledged his/her drug or alcohol problem before being selected for testing.

(c) OMS must:

- (1) ensure that the information below is provided within 30 calendar days of the date when the test specimen was collected, in person, or by certified mail, to any individual who has a confirmed positive drug test result:
 - (A) a copy of the laboratory report; and
 - (B) written notice that the individual is entitled to have a verification test conducted on the same specimen by a different certified laboratory, at his/her own expense. Inform him/her that the verification test will be conducted on a "split sample" of the original specimen, and that no new specimen will be collected for verification testing.

(d) If the drug test result is confirmed positive, and the individual has elected to have a test conducted by a different certified laboratory, arrange for the first laboratory

to send part of the original specimen to the second laboratory for verification testing at the individual's expense.

Sec. 13 Disciplinary Action Procedures For Volunteers

Disciplinary action procedures for LFRD Volunteers shall be in accordance with Chapter 21 and the directly negotiated agreement between the County and MCVFRA.

Sec. 14 Substance Abuse Testing And Rehabilitation

1. Employee Assistance Program:

- (a) Alcoholism and drug addiction shall be recognized and treated as diseases. Employees suffering from alcoholism and/or drug addiction shall be offered the opportunity for counseling and rehabilitation through an appropriate County program. Alcohol and drug-related disciplinary problems will not exclusively be dealt with in a punitive fashion.
- (b) The County has an Employee Assistance Program (EAP) which offers confidential counseling services to MCFRS personnel, and opportunities for referral to other resources for drug and alcohol treatment. The EAP has counselors who are trained, qualified substance abuse professionals and do not charge a fee to LFRD individuals.
- (c) LFRD members are urged to use the resources of the Montgomery County Employees Assistance Program when they feel that they have developed an addiction to, dependence upon, or problem with alcohol or drugs, legal or illegal.
- (d) Volunteer personnel may participate in the EAP either voluntarily, by supervisor intervention or referral, or intervention and referral by other parties. Participation shall not serve as the sole basis for an action affecting volunteer position security or promotional opportunity.
- (e) Participation in the EAP does not relieve volunteer personnel of the responsibility of satisfactorily meeting obligations required by law, policy, and MCFRS policies and procedures.
- (f) Self-referral confidentiality will be maintained between the individual seeking help and the EAP personnel. Self-referral should be made by calling and scheduling an appointment through the County's contracted EAP. Participants are expected to follow all treatment recommendations provided by the EAP.
- (g) Voluntary referral participants who exit the EAP before such exit is recommended by the appropriate treatment staff may be placed in an "Against Medical Advice" status (AMA). OMS will be notified of an "AMA" status. OMS will then notify the Fire Chief or designee who will promptly notify the LFRD department head. The Fire Chief or designee or LFRD department head will advise the participant that he/she will be placed on a random testing schedule for a period of time not to exceed 60 months. Any confirmed positive test or refusal to adhere to this policy on the part of the LFRD member will result in dismissal. Supervisors will not be contacted when a voluntary participant exits the program.

- (h) Personnel referred to the EAP by their supervisor or the Employee Medical Examiner are required to adhere to treatment and rehabilitation plans, as provided by the EAP staff. Volunteer progress will be monitored by the LFRD Department head who must report such progress to the Fire Chief or designee.
- (i) Participation in any treatment program or any request to obtain treatment for drug addiction or alcoholism must be kept confidential and may only be disclosed on a need to know basis in accordance with this policy.
- (j) This policy is in no way intended to supersede or waive a volunteer's Federal, State, or constitutional rights, or any other rights granted to volunteers under law.

2. Rehabilitation:

- (a) On the first occasion that an LFRD member's urine specimen produces confirmed positive test results, and in consideration of any related negligence or misconduct, the County will provide the member with the opportunity to participate in an appropriate rehabilitation program. The County shall have no financial responsibility for such program. A member will be afforded a second rehabilitation opportunity, provided there is no additional misconduct problem. Upon successful completion of the program, and upon a medical determination by the MRO that the member is fit for duty, the member will be returned to his regular duty assignment, or the equivalent thereof.
- (b) LFRD members who have referred themselves to the EAP or similar program because of an alcohol or drug problem shall not be subjected to disciplinary action because of the alcohol or drug problem itself, as long as they remain in a rehabilitation program which is monitored by the Employees Assistance Program and /or the LFRD department head who shall report such progress to Fire Chief or designee.
- (c) Rehabilitation is the responsibility of the LFRD member. LFRD members in a formal treatment program will be granted leave.
- (d) While participating in a rehabilitation program, the LFRD member must maintain contact with the LFRD Department head who shall report progress to Fire Chief or designee on a weekly basis through the treatment facility.

3. Voluntary Referral:

- (a) First Voluntary Referral: Any member who voluntarily reports a problem regarding the use of alcohol and/or drugs to his/her supervisor and requests assistance will be referred to the Employee Assistance Program. Each voluntary referral who is advised to participate in a rehabilitation program by the EAP must enroll in such a program. The EAP must provide updates and program participation information to OMS and the member's LFRD department head who shall report such progress to the Fire Chief or designee and OMS. Any LFRD member who withdraws from such a rehabilitation program and is determined to be a continued abuser of alcohol and/or drugs is subject to dismissal in accordance with Chapter 21 and the directly negotiated agreement between the County and MCVFRA.

- (b) Second Voluntary Referral: Any member who voluntarily reports on a second occasion regarding the use of alcohol and/or drugs to their supervisor and requests assistance will be referred to the Employee Assistance Program. Each voluntary referral who is advised to participate in a rehabilitation program by the EAP must enroll in such a program. The EAP must provide updates and program participation to OMS and the member's department head who shall report such progress to the Fire Chief or designee. Any LFRD member who withdraws from such a rehabilitation program and is determined to be a continued abuser of alcohol and/or drugs is subject to dismissal in accordance with Chapter 21 and the directly negotiated agreement between the County and MCVFRA.
- (c) MCFRS will only assist with two voluntary requests for rehabilitation.
- (d) Voluntary Request/Confirmed Offense: Any LFRD member who has been in a rehabilitation program on a voluntary basis and then is determined to have a confirmed positive test screen at a later time is subject to dismissal in accordance with Chapter 21 and the directly negotiated agreement between the County and MCVFRA.
- (e) A voluntary report, as described in (a) and (b) above, must occur prior to the initiation of management contact for drug and/or alcohol testing or a claimed violation of this policy, or a claimed violation of a drug and/or alcohol MOU.